

City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
November 13, 2002

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Mayor David Dermer
Vice-Mayor Simon Cruz
Commissioner Matti Herrera Bower
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

- PA1 Plaques/Representatives Shaw & Ros-Lehtinen, US Fire Act Grant Award.
- PA2 Proclamation/Harry Horgan, Helping the Physically Disabled. (Steinberg)
- PA3 Cert. of Apprec./CMB & MTV Staff, Successful MTV Music Awards Latin American. (Steinberg)
- PA4 Cert. of Apprec./Dr. Harry Heinitsh, Years of Service to the City of Miami Beach. (Dermer)
- PA5 Key to the City/A. Zel, Bringing MTV Music Awards Latin America to Miami Beach. (Steinberg)
- PA6 **D-New Item:** Cert. of Apprec./Michael Aller, Thanksgiving Day Parade Organizing. (Cruz)
- PA7 **New Item:** Cert. of Apprec./Katherine Pener, Lifelong Cancer Prevention Advocate. (Dermer)

- C2A Issue P.O., Purchase Vehicles from Various Vendors, \$739,640.75.

- C4A Ref: Community Affairs Committee - Ordinance Limiting Corporate Contributions. (Steinberg)
- C4B Ref: Neighborhoods Committee - Ordinance Amending Provisions for Parking Lots. (Steinberg)
- C4C Ref: Finance & Citywide Projects Committee - Funding for Lincoln Road Marketing. (Bower)

- C6A Report: Neighborhoods Committee Meeting of October 17, 2002.
- C6B Report: Finance & Citywide Projects Committee Meeting of October 25, 2002.
- C6C Report: General Obligation Bond & Oversight Committee Meeting of November 4, 2002.

- C7A Issue RFQ, Miami Beach Botanical Garden Improvement Project Completion.
- C7B Issue RFQ, South Pointe Park Improvement Project Completion.
- C7C Appropriate Quality of Life Funds, Tourism Oriented Projects in North Beach Area.
- C7D Approve Settlement for Outstanding Liens on Property of 7474 Collins Avenue.
- C7E Approve Settlement Agmt w/MDC School Board, Outstanding Construction Issues at Polo Park.
- C7F Accept Various Gifts of Art Donated to the Bass Museum.
- C7G Approve Revisions to the Rental Rate Structure of Miami Beach Convention Center.
- C7H Set Public Hearing, Consider Waiver for Temporary Banner Placements.
- C7I Issue RFP, Underwriting Services for a (3) Year Period w/ Two (1) Year Renewal Options.
- C7J Accept Recommendation/Provide Financial Advisory Services to City of Miami Beach.

- C7K Waive Formal Bidding, Issue S.O. to BellSouth Telecommunications. **5/7**
 C7L Authorize Donation of (1) Used Fire Rescue Vehicle to Our Sister City Ica, Peru.
 C7M Execute Amendments to the HOME Program Agreements.
 C7N Issue RFP, Consulting Services - Consolidated Plan for Federal Funds for FY 2003-07.
 C7O Set Public Hearing, Approve Modification on the Aqua Project - Allison Island.
 C7P Execute Termination/Abandonment of Utility Easement - 1458 Ocean Drive.
 C7Q Grant Easement to FPL, Transformer Pad/Vault at Miami Beach Regional Library.
 C7R Execute 1st Amendment, Maintain Directory Structures in the Lincoln Road Area.
 C7S Waive Formal Bidding, Issue S.O. to Purchase (2) Vacuum Litter Collection Machines. **5/7**
 C7T Declare the Existence of Citywide Parking Emergencies for Various Events.
 C7U Execute Amendment to Agmt, Parks Master Plan Bond Program.
- R2A Issue P.O. to Various Vendors, Purchase of Several Vehicles. \$1,789,651.40.
- R5A **10:15 a.m. 2nd Rdg**, Naming of Public Facilities/Establishment of Monuments or Memorials.
 R5B **10:20 a.m. 2nd Rdg**, Prohibit Campaign Contributions by Lobbyists-Procurement Issues. (Gross) 272
 R5C **10:45 a.m. 2nd Rdg**, Proposed Amendment to the Sign Section of the City Code. **5/7**
 R5D **2:00 p.m. 1st Rdg**, Demolition by Neglect Procedures. **5/7**
 R5E **5:05 p.m. 2nd Rdg**, Amendment to RPS-4 Development Regulations. **5/7**
 R5F **1st Rdg**, Allow Limited Display of Food Served at Sidewalk Cafés. **5/7**
- R6A Verbal Report: Land Use & Development Committee Meeting of November 4, 2002.
 R6B Verbal Report: Neighborhoods Committee Meeting of November 5, 2002.
- R7A **Joint**, Award Contract, Beachwalk Bicycle/Pedestrian Trail Project - 21st St. to Lummus Park.
 R7B **10:16 a.m. Public Hrg.**, Approve Renaming Bayshore Golf Course to Miami Beach Golf Club.
 R7C **W-Approve Settlement Agmt w/ Ecco.Complex, Llc.**, Outstanding Violations of Code.
 R7D Establish Sequencing of Construction, ROW Infrastructure/Parks & Facilities Improvements.
 R7E Execute Service Agmt, Venetian Islands Neighborhood ROW Improvement Project.
 R7F Approve City Manager's Annual Evaluation.
 R7G Accept Recommendation, Review/Assess Structure of GMC&VB.
- R9A Board and Committee Appointments.
 R9A1 Appoint Nominees from Dade Heritage Trust to the Historic Preservation Board.
 R9A2 Reappoint Michael Baum to the Health Facilities Authority.
 R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
 R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
 R9C Disc. Clean-Up & Dredging of City's Canals. (Dermer)
 R9D **11:00 a.m.** Disc. Letter of Intent Concerning Issues Between CMB, RDA & RDP Royal Palm.
 R9E Disc. Westside East Coastline Development Litigation. (Smith)
 R9F Disc. Status of City Center RDA Amendments Pending Before MDC Commission. (Smith)
 R9G Disc. Reso re: Oppose Airport Security Cost Shifting to Local Law Enforcement. (Steinberg)
- R10A Notice of Public Disclosure Pursuant to 24 CFR Section 570.611(d)(1).
 R10B **Noon Break**, Executive Session: West Side Partners, Ltd./East Coastline Devlp't. vs. CMB.

REPORTS AND INFORMATIONAL ITEMS

- A City Attorney's Status Report.
 B Parking Status Report.
 C Status Report on Fire Station No. 2.
 D Status Report on Fire Station No. 4.
 E Report on All City Contracts for Renewal/Extension Exceeding \$25,000.
 F Public Hearings Before the Planning Board for August 27, September 24, & October 22, 2002.

REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 2A Report of Itemized Revenues/Expenditures of RDA for September 2002.

- 3A **Joint**, Award Contract, Beachwalk Bicycle/Pedestrian Trail Project - 21st St. to Lummus Park
- 3B Appropriate Funds, Pay 2002 Ad Valorem Property Taxes for Yacht Club at Portofino Project.
- 3C Appropriate Funds, Pay 2002 Ad Valorem Property Taxes for Murano at Portofino Project.
- 3D Appropriate Funds, Pay 2002 Ad Valorem Property Taxes - Anchor Shops & Parking Garage.

Called to order at 9:22:26 a.m.

Inspirational Message given by Garth Thompson Miami Beach Community Church.

Pledge of Allegiance led by Chief De Lucca.

Requests for Additions, Withdrawals, and Deferrals

PA - Presentations and Awards

- PA1 Certificates Of Appreciation To Be Presented To Representatives Clay Shaw And Ileana Ros-Lehtinen,
For The US Fire Act Grant Award Of \$289,722.
(City Manager's Office)
(Deferred From October 23, 2002)

ACTION: Item deferred.

- PA2 Proclamation To Be Presented To Harry Horgan, Founder Of Shake-A-Leg, For Helping The Physically
Disabled, People With Developmental Disabilities, Disadvantaged Youth, And The Community At Large.
(Requested By Commissioner Richard L. Steinberg)

ACTION: Proclamation presented.

Harry Horgan spoke.

- PA3 Certificates Of Appreciation To Be Presented To City Of Miami Beach And MTV Staff, For Their
Outstanding Efforts In Making The MTV's First Ever Video Music Awards Latin American A Success.
(Requested By Commissioner Richard L. Steinberg)

ACTION: Certificates presented.

Certificates presented to MTV staff: Charlie Singer, Cristian Jofre and Jose Tillan.

Certificates presented to City staff: Ramiro Inguanzo, Margarita Fernandez, Dennis Leyva and Chuck Adams.

- PA4 Certificate Of Appreciation To Be Presented To Dr. Harry Heinitsh, For His Many Years Of Service To The City Of Miami Beach.

(Requested By Mayor David Dermer)

ACTION: Certificate presented.

Fire Chief Floyd Jordan and Jack Richardson, President of the Fire Fighters Union, accepted the Certificate for Dr. Heinitsh.

- PA5 Key To The City To Be Presented To Antoinette Zel, President Of MTV Latin America, For Her Vision In Bringing MTV Video Music Awards Latin America To The City Of Miami Beach.

(Requested By Commissioner Richard L. Steinberg)

ACTION: Key presented.

Antoinete Zell spoke.

- PA6 Certificate Of Appreciation To Be Presented to Michael Aller, For His Outstanding Work In Making Arrangements For The Thanksgiving Day Parade.

(Requested By Vice-Mayor Cruz)

ACTION: Item deferred.

- PA7 Certificate Of Appreciation To Be Presented to Katherine Pener, Cancer Survivor, Coordinator Of The South Florida Regional "Reach To Recovery," For Encouraging And Assisting Cancer Victims In The City Of Miami Beach.

(Requested By Mayor David Dermer)

ACTION: Certificate presented.

Katherine Pener spoke, honoring Mayor Dermer for his contribution to the American Cancer Society and encouraged him to continue his work.

Handout or Reference Materials:

1. Brochures for the American Cancer Society

Announcements made by Mayor Dermer:

1. He commented on the Thanksgiving parade held on South Beach. The parade will be broadcasted on CBS Thanksgiving Day. Miami Beach should receive about 23 minutes of national Television exposure.
2. He congratulated newly elected Governor Jeb Bush and State Senator Gwen Margolis. He also stated that Miami Beach has three (3) State Representatives, Dan Gelber, Dorothy Bendross Mindigal and Gus Barreiro. Miami Beach is also represented at the Federal level by Representative Peter Deutsch and Ileana Ros Lehtinen.

CONSENT AGENDA

ACTION: Motion made by Commissioner Bower to approve the Consent Agenda; seconded by Commissioner Steinberg; Voice vote: 7-0.

C2 - Competitive Bid Reports

- C2A Request For Approval To Issue Purchase Orders Totaling \$739,640.75, Pursuant To Florida State Contract No. 02-10-0826, To The Following Vendors: Alan Jay Chevrolet, For The Purchase Of Forty-Nine (49) 2003 Chevrolet Cavalier Vehicles In The Amount Of \$628,817; And To Duval Ford, For The Purchase Of Five (5) 2003 Ford Explorer XLS 4x4 Utility Vehicles In The Amount Of \$110,823.75.
(Fleet Management)

ACTION: Award approved. Gus Lopez to issue Purchase Order. Drew Terpak to handle.

C4 - Commission Committee Assignments

- C4A Referral To The Community Affairs Committee - An Ordinance Limiting Non-Individual/Corporate Contributions.
(Requested By Commissioner Richard L. Steinberg)

ACTION: Item referred. Mayra Diaz Buttacavoli to place on the agenda. Legal Department to handle.

10:30:19 a.m.

- C4B Referral To The Neighborhoods Committee - An Ordinance Amending Enforcement And Penalty Provisions for Parking Lots And Valet Parking Operators.
(Requested By Commissioner Richard L. Steinberg)

ACTION: Separated for discussion by Commissioner Garcia. **Item referred.**

Motion made by Commissioner Steinberg; seconded by Commissioner Smith; Voice vote: 6-1; Opposed: Commissioner Garcia. Vivian Guzman to place on the agenda. Saul Frances to handle.

Commissioner Garcia stated that there should be a Commission Workshop to discuss this item.

Commissioner Steinberg recommended that the issue be referred to the Neighborhoods Committee.

Handout or Reference Materials:

1. Letter from Gary A. Knight, Chair, Transportation and Parking Committee, dated November 6, 2002, to Jorge Gonzalez, City Manager, RE: valet ordinance amendment proposed by Commissioner Richard Steinberg.

- C4C Referral To The Finance And Citywide Projects Committee - Discussion Regarding Concession Revenues And Funding For Lincoln Road Marketing, Inc.
(Requested By Commissioner Matti Herrera Bower)

ACTION: Item referred. Patricia Walker to place on the agenda and to handle.

C6 - Commission Committee Reports

- C6A Report Of The Neighborhoods Committee Meeting Of October 17, 2002: **1)** Status Report On Pay Telephone Kiosk On Public Property Or City Rights-Of-Way; **2)** Discussion Regarding Panhandling In Miami Beach; **3)** Discussion Regarding The 63rd Street Flyover Construction Mitigation Of Traffic (MOT) Plan; **4)** Discussion Regarding Cellular Antennas On The Tower Of City Of Miami Beach Fire Station #2; **5)** Discussion Regarding The City's Enforcement Of The Noise Ordinance; And **6)** Discussion Regarding The Creation Of A City Code Review Ad Hoc Committee.

ACTION: Written report submitted.

Item 1.

A motion made by Vice-Mayor Steinberg, seconded by Commissioner Cruz and unanimously approved by the Committee to recommend the following to appear in the draft ordinance:

1. A 900-foot radius must be maintained between pay telephones with advertising.
2. Provide 100 pay telephones with advertising citywide and no more than 50 per company.
3. Companies should be prohibited from creating subsidiaries to capture more than 50 telephones and thereby create a monopoly of pay telephones with advertising.
4. Pay telephones with advertising should be limited to commercial areas.

City Clerk's Note: See LTC 252-2002 dated 10/30/2002 RE: Advertising on Pay Telephones -

5. Draft ordinance can include recommended size of advertising (2x1), with the full Commission making the final decision and no recommendation from the Committee.

6. The ordinance should be placed on the November 13, 2002 City Commission Meeting. **Fred Beckmann to handle.**

Item 2.

Action: A motion was made by Vice-Mayor Steinberg, seconded by Commissioner Cruz to unanimously approve the ordinance as drafted and to refer the ordinance to the City Commission at the November 13, 2002 City Commission Meeting. **Vivian Guzman to handle.**

*** **Item 3. Note this item does not match with the item listed in the Commission Agenda - Agenda title:** Discussion Regarding The 63rd Street Flyover Construction Mitigation Of Traffic (MOT) Plan. **No reference in Neighborhoods Report that this item was heard.**

Agenda Item 4 (Commission Agenda) listed in the Neighborhoods Committee report as Item 3.

Action: No action was taken. Administration to investigate alternatives for siting a new tower for City radio needs. **Kay Randall to handle.**

Agenda Item 5 (Commission Agenda) listed in the Neighborhoods Committee report as item 4. Discussion regarding the City's Enforcement of the Noise Ordinance.

Action: Item deferred to the next Neighborhoods Committee meeting. **Vivian Guzman to place on agenda. Al Childress to handle.**

Agenda Item 6 (Commission Agenda) listed in the Neighborhoods Committee report as item 5.

Action: No action taken. Administration to develop recommendation for committee composition and bring back to Neighborhoods Committee next month. **Vivian Guzman to handle.**

- C6B Report Of The Finance And Citywide Projects Committee Meeting Of October 25, 2002: **1)** Discuss The Future Management Of The Miami Beach Convention Center And Theater Of The Performing Arts; **2)** Discussion Item Concerning The Revisions To The Rental Rates For Miami Beach Convention Center; **3)** Discussion Regarding The City Hall Parking Expansion Garage And Intermodal Facility For The Convention Center Expansion And P-Lot Garage; **4)** The Potamkin Site At Alton Road And 5th Street; **5)** Wolfsonian - FIU Is Requesting \$550,000 From The City For The Construction Of A Café And Exhibition Space In Their Washington Avenue Building; And **6)** Adopting The Master Plan Prepared By STA Architectural Group For The Improvement And Expansion Of The 10th Street Auditorium/Beach Patrol Facility At 10th Street And Ocean Drive And Further Directing The Administration To Explore Options For Funding The Proposed Improvements..

ACTION: Written report submitted.

Item 1.

The Committee moved the item to the full Commission, recommending Administration issue a Request for Proposal (RFP), seeking qualified firms for the management and operation of the Miami Beach Convention Center and the Theater of Performing Arts. **Christina Cuervo to handle.**

Item 2.

The Committee recommended Administration: bring back, to a future Finance and Citywide Projects Committee Meeting, threshold criteria for the five proposed pricing initiatives and the proposed marketing fund; and, proceed with the recommended initiatives. **Patricia Walker to place on agenda. Christina Cuervo to handle.**

Item 3.

The Committee moved the item to the Commission, recommending Administration proceed with the planning and design for the City Hall Parking Expansion garage and the P-Lot Garage/Multi Purpose Facility by issuing RFQ (request for Qualification); that the program manager to the project by URS, that the existing URS contract be amended to include the project; develop a sequencing plan for the subsequent P-Lot Garage and Multi-Purpose Facility. **Tim Hemstreet to handle.**

Item 4

The Committee made a motion to bring the item to Commission for discussion and authorize Administration to move forward and fine tune negotiations with representatives from the Potamkin Site; exploring the following: the vacation of the public alley, determination of the relative value of said alley, the possibility of participating in the project as a partner in building and/or operating the garage portion of the development, and the availability of grants and other resources for funding construction of any city participation. **Christina Cuervo to handle.**

Item 5.

Item deferred. **Patricia Walker to place on next agenda.**

Item 6.

The Committee made a motion to endorse the Master Plan prepared by STA Architectural Group for the improvement and expansion of the 10th Street Auditorium/Beach Patrol Facility at 10th Street and Ocean Drive and further direct the Administration to explore options for funding the proposed improvements. **Tim Hemstreet, Mayra Diaz Buttacavoli and Patricia Walker to handle.**

- C6C Report Of The General Obligation Bond And Oversight Committee Meeting Of November 4, 2002: **1)** Project Status Report; **2)** Presentation: a) CIP Office Structure, Activities, And Budget; **3)** Recommendation To City Commission: a) Venetian Island A/E Award; **4)** Discussion: a) Swale Maintenance After General Obligation Bond Improvements Are Completed; **5)** Informational Items: a) Updated Calendar Of Scheduled Community Design Workshops; **6)** Change Order Report.

ACTION: Written report submitted.

Item 1.

The Administration informed the Committee that the South Shore Community Center project is progressing. Occupants of the facility are being informally kept up to date, but will be formally notified when they will have to relocate out of the facility for the duration of the construction.

The Committee inquired as to the outcome of the presentation to the Historic Preservation Board of the Lummus Park project. The Administration advised the Committee that the presentation made was only advisory and that the formal presentation will be made at a later date.

A status of the 10th Street Auditorium project was provided. The Administration made a presentation to the Finance and Citywide Projects Committee of the proposed Master Plan for the site. The Finance and Citywide Projects Committee recommended that the City proceed with the Master Plan and identifying the funding to complete it.

The Committee asked about the status of the Fire Station No. 4 project. The Administration informed the Committee that the Historic Preservation Board approved the design of the facility in July. The old addition on the station will be demolished, and the original station relocated to the southwest portion of the property. A new station will then be built on the sight.

The Committee was told that the State of Florida had sold the remaining pieces of land that needed to be sold before the State would transfer the titles of 11 contiguous lots to the City. The 11 lots will comprise the Altos del Mar Park, and the State will be turning the titles over to the City shortly. An agreement will be finalized with the A/E firm originally selected for the project, and planning and design for the park will begin.

Item 2.

The Administration made a presentation to the Committee regarding the CIP Office Structure, Activities, and Budget. The presentation outlined the organizational structure of the office, and the activities of the respective portions of the department (Planning, Construction, Community Information, and Administration), as well as the responsibilities of department in relation to supporting the Program Managers. A brief status report was given on the Right-of-Way Infrastructure Improvement Program, the Parks and Facilities Program, and the projects managed by the City of Miami Beach. The Committee was told about the CIP Office's Goals and Objectives and Performance Measures as reported in the Fiscal Year 2003 City Budget. A review of the CIP Office's operational budget and how the operational budget relates to the funding for the projects under the purview of the CIP Office concluded the presentation.

Item 3.

The Committee approved a motion to recommend that the City Commission approve an Agreement with

the Edwards and Kelcey, Inc. for Design and Construction Administration Services for the Venetian Islands Neighborhood Right of Way Improvement Project, with a General Obligation Bond fund fee of \$295,964. See agenda item R7E.

Item 4.

A discussion was held regarding the improvements being made to the City's swales as part of the Right-of-Way Infrastructure Improvement Program. It was noted that the funding for the improvements does not include funding for maintenance after the improvements are made. The Administration informed the Committee that a special committee of residents is being created to address how improvements to swales will be handled with regard to locations where residents have installed plantings or structures in the swale area.

Item 5.

The following informational item was provided to the Committee but not reviewed during the meeting: an updated calendar of Scheduled Community Design Workshops.

Item 6.

The Administration informed the Committee of change orders that had been approved since the last meeting.

C7 - Resolutions

9:52:11 a.m.

- C7A A Resolution Authorizing The Administration To Issue A Request For Qualifications (RFQ) For Planning, Design, And Construction Administration Services Needed To Complete The Miami Beach Botanical Garden Improvement Project With Funding Provided By The Series 2000 General Obligation Bond.
(Capital Improvement Projects)

ACTION: Separated for discussion by Commissioner Gross.

Resolution No. 2002-25046 and the RFQ was amended. Motion made by Commissioner Gross to amend the Minimum Requirements section 1) "..... at least (32) - representative Botanical Garden or arboretum projects completed within the last (10) years with a minimum construction cost of \$1,000,000. At least (1) of the (32) projects..." seconded by Commissioner Smith; Voice vote: 7-0. Gus Lopez and Tim Hemstreet to handle.

- C7B A Resolution Authorizing The Administration To Issue A Request For Qualifications (RFQ) For Planning, Design, And Construction Administration Services Needed To Complete The South Pointe Park Improvement Project With Funding Provided By The Series 2000 General Obligation Bond, South Pointe RDA Funding, And The 1995 Parks Bond.
(Capital Improvement Projects)

ACTION: Resolution No. 2002-25047 adopted. Gus Lopez and Tim Hemstreet to handle.

- C7C A Resolution Approving And Authorizing The Appropriation Of \$55,777 In City Of Miami Beach Quality Of Life/Resort Tax Funding From Fiscal Year 2001/2002 For The Purpose Of Funding Tourism Oriented Projects In The North Beach Area; Specifically For Improvements To The North Shore Tennis Center Project.

(Capital Improvement Projects)

ACTION: Resolution No. 2002-25048 adopted. Patricia Walker to appropriate the funds. Tim Hemstreet to handle.

9:56:06 a.m.

- C7D A Resolution Approving A Settlement For Outstanding Liens On The Property Of 7474 Collins Avenue Owned By Bank Of America, Which Shall Provide For An \$8,000 Payment To The City Of Miami Beach In Full Settlement Of The Outstanding Lien In The Amount Of \$236,314.48.

(City Manager's Office)

ACTION: Separated for discussion by Commissioner Gross.

Resolution No. 2002-25049 adopted. (See referral below). Motion made by Commissioner Gross; seconded by Commissioner Smith: Voice vote: 7-0. Robert Middaugh to handle. Robert Parcher to release the lien.

Commissioners Gross and Smith stated that this is an example of why the Commission needs the ability to mitigate these cases.

The ordinance dealing with "**Rehearings/Mitigation**" To Provide For Limits On Settlement Agreements Regarding Special Master Fines, (September 11, 2002 - R5E), referred to the Neighborhood Committee to review those portions of the ordinance that which may be relevant. Vivian Guzman to place on the agenda. Robert Middaugh to handle.

10:00:54 a.m.

- C7E A Resolution Approving A Settlement Agreement Between The City Of Miami Beach And The School Board Of Miami-Dade County, Florida, For Outstanding Construction Issues Associated With Polo Park; Providing That The School Board Of Miami-Dade County Will Pay \$85,000 To The City To Affect Repairs To The Park And That The School Board Will Make Repairs To The Tennis Courts At Their Its Own Expense.

(City Manager's Office)

ACTION: Separated for discussion by Commissioner Gross.

Resolution No. 2002-25050 adopted. Agreement to be amended by the Legal Department to include indemnification and dispute-resolution language. Motion made by Commissioner Bower; seconded by Commissioner Gross: Voice vote: 7-0. Robert Middaugh to handle.

Commissioner Gross separated this item just to state how happy he is that this issue is finally going to be resolved.

Commissioner Bower complemented Merrett Stierheim, Superintendent of Miami-Dade County Schools, and Jorge Gonzalez, City Manager, for accomplishing this complex issue.

Jorge Gonzalez, City Manager, stated that the School Board will pay the City \$85,000 to do landscaping and repair work to the field, the basketball courts, and the park area. The School Board will continue with the responsibility to replace or repair the tennis courts. The School Board and the City will enter into an agreement to share the maintenance such as litter control, etc. The park will become a City park.

Handout or Reference Materials:

1. Copy of a faxed proposed Settlement Agreement between the City of Miami Beach and the School Board of Miami-Dade County

10:04:26 a.m.

- C7F A Resolution Authorizing The Acceptance Of Various Gifts Of Art Valued In Total At \$1,016,700 As Donated To The Bass Museum Of Art, Miami Beach, Florida.
(Cultural Affairs & Tourism)

ACTION: Separated for discussion by Commissioner Gross.

Resolution No. 2002-25051 adopted. Motion made by Commissioner Garcia; seconded by Commissioner Bower: Voice vote: 7-0. Diane Camber, Executive Director of Bass Museum of Art to handle.

Commissioner Gross asked what process is in place to decide whether to accept gifts.

Diane Camber, Executive Director of the Bass Museum, explained that the Bass Museum does not accept all donations and read a portion of the acquisition process that was approved in 1992 into the record.

Commissioner Gross asked if the Bass Museum has a policy regarding the kinds of work the Bass is trying to collect that gives an identity to the Museum or is the policy to accept work from any collector who wishes to contribute.

Diane Camber stated that she would provide the City Commission with a copy of the Bass Museum of Art - Collection Management Policy. **Diane Camber to handle.**

Commissioner Smith asked if there is a minimum amount below which the Museum should not be accepting gifts. He stated that some items were less than \$1,000.00 and that there should be criteria below which the Museum does not accept the gifts.

Diane Camber stated that there are works that on paper are less than \$1,000 in monetary value but the monetary value is not the only criteria. The monetary value of the item isn't the only criteria evaluated. The intrinsic and historic value of the item is also taken into consideration.

Handout or Reference Materials:

1. Bass Museum of Art - Collection Management Policy - Approved by Board of Trustees - November 7, 1992 as submitted by Diana Camber, Executive Director of Bass Museum.

- C7G A Resolution Authorizing The Mayor And City Clerk To Approve Revisions To The Rental Rate Structure Of The Miami Beach Convention Center To Allow For Certain Defined Pricing Discretion Negotiability.
(Cultural Affairs & Tourism)

ACTION: Resolution No. 2002-25052 adopted. Doug Tober to handle.

- C7H A Resolution Setting A Public Hearing For December 11, 2002, To Consider A Waiver Of Development Regulations Pursuant To Section 142-425 (d) Of The Land Development Regulations For The Proposed Temporary Banner Placements, Located At City Hall, 1700 Convention Center Drive, Miami Beach, Florida And 16th Street* Parking Garage, Located At 16th Street* And Convention Center Drive, Miami Beach, Said Waiver Under Chapter 138 Of The Land Development Regulations.
(Cultural Affairs & Tourism)

ACTION: Resolution No. 2002-25053 adopted. Public hearing scheduled for December 11, 2002. R. Parcher to notice. Lilia Cardillo to place on the agenda. Grisette Roque Marcos to handle.

City Clerk's Note: * The City Attorney's Office informed the City Clerk that instead of 16th Street it should have been 17th Street.

- C7I A Resolution Authorizing The Administration To Issue A Request For Proposal (RFP) For Underwriting Services, For A Three-Year Period With Two One-Year Renewal Options.
(Finance Department)

ACTION: Resolution No. 2002-25054 adopted. Gus Lopez and Patricia Walker to handle.

- C7J A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Received Pursuant To Request For Proposals (RFP) 38-01/02, For Providing Financial Advisory Services To The City Of Miami Beach; Authorizing The Administration To Enter Into Negotiations And Contract With The Top Ranked Firm Of William R. Hough & Co.; And Should The Administration Not Be Able To Negotiate An Agreement With The Top Ranked Firm; Authorizing The Administration To Negotiate With The Second Ranked Firm Of RBC Dain Rauscher, Inc.
(Finance Department)

ACTION: Resolution No. 2002-25055 adopted. Patricia Walker to handle.

- C7K A Resolution Waiving, By 5/7ths Vote, The Formal Bid Process, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing Administration To Issue A Standing Order To BellSouth Telecommunications, Inc., In The Amount Of \$63,338 Per Month, Under A Month-To-Month Billing Arrangement, During FY 2002-2003, To Provide The City Of Miami Beach With City-Wide Local Telephone Services Until Such Time That The City Awards A Contract As A Result Of A Competitive Bidding Process.
(Finance Department)

ACTION: Resolution No. 2002-25056 adopted. Kay Randall to handle.

- C7L A Resolution Authorizing The Donation Of One (1) Used 1995 Ford E-350 Fire Rescue Vehicle In "As Is" Condition To The Firefighters Of Our Sister City Ica, Peru.
(Fleet Management)

ACTION: Resolution No. 2002-25057 adopted. Drew Terpak to handle.

C7M Amendments To The Home Investment Partnerships (HOME) Program Agreements

1. A Resolution Authorizing The Mayor And City Clerk To Execute A Third Amendment To The Home Investment Partnerships (HOME) Program Agreement, Dated June 6, 2001, Between The City And Miami Beach Community Development Corporation (MBCDC), Providing \$208,777 In HOME Program Funds From The HOME Program Notice Of Funding Availability (NOFA) For Fiscal Year 2001/2002, Towards The Cost Of The Acquisition And Rehabilitation Of An Apartment Building, Located At 532 Michigan Avenue, Miami Beach, To Provide Sixteen (16) Rental Units For Income-Eligible Elderly Residents In Accordance With The HOME Program Requirements.

ACTION: Resolution No. 2002-25058 adopted. Vivian Guzman to handle.

2. A Resolution Authorizing The Mayor And City Clerk To Execute A Third Amendment To The Home Investment Partnerships (HOME) Program Agreement, Dated April 12, 2002, Between The City And Miami Beach Community Development Corporation (MBCDC), Providing \$207,473 In HOME Program Funds From The HOME Program Notice Of Funding Availability (NOFA) For Fiscal Year 2001/2002, Towards The Cost Of Acquisition And Rehabilitation Of The Property Located At 1551 Pennsylvania Avenue To Provide Twenty (20) Rental Units For Income-Eligible Residents In Accordance With The Home Program Requirements.
(Neighborhood Services)

ACTION: Resolution No. 2002-25059 adopted. Vivian Guzman to handle.

C7N A Resolution Authorizing The City Manager, Or His Designee, To Issue A Request For Proposals For Professional Consulting Services For Preparation Of The Consolidated Plan For Federal Funds For Fiscal Years 2003 - 2007.

(Neighborhoods Services)

ACTION: Resolution No. 2002-25060 adopted. Gus Lopez and Vivian Guzman to handle.

C7O A Resolution Setting A Public Hearing To Consider Approving A Modification To The Declaration Of Restrictions On The Aqua Project Located On Allison Island, To Allow An Adjustment To The Height Of Habitable Space Permitted In The Development, But Not To Exceed The Height Presently Permitted For Nonhabitable Space.

(Planning Department)

ACTION: Resolution No. 2002-25061 adopted. Public hearing scheduled for December 11, 2002. R. Parcher to notice. Lilia Cardillo to place on the agenda. Jorge Gomez to handle.

10:47:56 a.m.

- C7P A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Termination And Abandonment Of A Utility Easement In Favor Of South Beach Resort Development LLC, Regarding The Property Located At 1458 Ocean Drive (De Soleil-South Beach); Said Easement Located In The Rear Of Lots 5, 6, 11 And 12 Of The Harrison And Hayes Subdivision; Said Termination And Abandonment Contingent Upon And Subject To South Beach Resort Development's Execution Of A Unity Of Title For Aforestated Lots And Obtaining Letters Of Approval And/Or No Objection From All Active Utility Companies In The City For The Vacation/Abandonment Of This Easement.
(Public Works)

ACTION: Separated for discussion by Commissioner Garcia.

Resolution No. 2002-25062 adopted as amended. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice-vote: 7-0. Fred Beckmann to handle.

AMENDMENT read into the record by Murray Dubbin, City Attorney.

Now, Therefore clause:

1. "...Development, LLC, ~~should~~ shall execute a"
2. "...Development, LLC, ~~should~~ shall comply"

Commissioner Garcia explained that several Commission Meetings ago [June 19, 2002 - R9G] a group from the Biscayne Point area requested for the City to abandon the alley behind approximately 20 homes. He stated that the Biscayne Point residents should get the same treatment as this case and not have to pay the minimum of \$5,000 or the fair market value of the property as stated in the City Policy.

Commissioner Smith stated that in the Biscayne Point issue the City owns the land. In this case the property owner owns the land and gave the City an easement.

Jorge Gonzalez, City Manager, stated that the Administration will review the similarities between this request and the Biscayne Point request and will bring back a recommendation relative to the Biscayne Point issue. **Fred Beckmann to handle.**

Fred Beckmann, Public Works Director, stated that the easement is a utility easement on private property that has never been used since 1924. This is not City property. There is no intent for the City to use this easement.

- C7Q A Resolution Authorizing The Mayor And City Commission To Grant A Non-Exclusive Easement To Florida Power & Light Company (FP&L) For The Provision Of Underground Distribution Facilities, A Transformer Pad And A Vault At The Miami Beach Regional Library; And Authorizing The Mayor And City Clerk To Execute And Record The Easement For The Required Underground Facilities, Transformer Pad And Vault.

(Public Works)

ACTION: Resolution No. 2002-25063 adopted. Fred Beckmann to handle.

- C7R A Resolution Approving And Authorizing The Mayor And City Clerk To Execute First Amendment To The Agreement Between The City And Clear Channel Adshel, Inc., To Construct, Operate And Maintain Directory Structures In The Lincoln Road Area; Said Amendment Extending The Agreement Term By Two (2) Years In Consideration Of Adshel's Agreement To Provide Directory And Street Signage On Lincoln Road.

(Public Works)

ACTION: Resolution No. 2002-25064 adopted. Fred Beckmann to handle.

- C7S A Resolution Waiving, By 5/7ths Vote, The Formal Bid Process, Finding Such Waiver To Be In The Best Interest Of The City; Authorizing The Administration To Issue A Standing Order To Florida Municipal Equipment, Inc., The Sole Authorized Distributor Of Madvac Equipment, For The Purchase Of Two Vacuum Litter Collection Machines At A Total Cost Of \$81,990.

(Public Works)

ACTION: Resolution No. 2002-25065 adopted. Fred Beckmann to handle.

- C7T A Resolution Finding And Declaring The Existence Of Citywide Parking Emergencies With Respect To The Following Events Held Or To Be Held In The City Of Miami Beach: Retroactively, On November 9-11, 2002 For The South Florida Auto Show; November 16-17, 2002 For The South Florida Auto Show (Second Weekend); December 5-8, 2002 For Art Basel; December 31, 2002 For New Year's Eve; January 9-13, 2003 For Art Miami; January 24-26, 2003 For Graphics Of The Americas; February 15-17, 2003 For The NMMA Miami International Boat Show; Further, To Alleviate Said Parking Emergencies, Allowing For The Provision Of Additional Parking Through The Use Of Specified Vacant Surface Lots Citywide. The City Shall Require Parking Operators To Secure The Appropriate Insurance And Occupational Licenses Required By The City Code To Operate Self-Parking And/Or Valet Parking Operations For This Purpose.

(Parking Department)

ACTION: Resolution No. 2002-25066 adopted. Al Childress and Saul Frances to handle.

10:16:00 a.m.

- C7U A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Amendment To The Current Professional Services Agreement Between The City Of Miami Beach And The Firm Of Bermello, Ajamil And Partners, Inc. For Parks Master Plan Bond Program Sites Of North Shore Park, North Shore Open Space, Pinetree Park, Parks Maintenance Facility, Lummus Park And South Pointe Park To Provide For An Extension Of Time And For Additional Services, In The Amount Of \$157,716, For The Projects; Also Deleting The South Pointe Park Project And The North Shore Open Space Park Project Phases IV And V From The Scope Of Services, And Their Respective Fees In The Total Amount Of \$329,073.26, For A Total Decrease In Fees In The Amount Of \$171,357.26; Reallocating The Remaining Reimbursable Allowance For South Pointe Park In The Amount Of \$7,977 To Other Projects Under The Agreement; Appropriating \$165,693 From The General Obligation Bond Interest Funds To Fund The Extension Of Time And Reallocation Of Reimbursable Allowance.

(Capital Improvement Projects)

ACTION: Separated for discussion by Commissioner Gross.

Resolution No. 2002-25067 adopted. Agreement amended. Motion made by Commissioner Gross that the agreement be amended stating that Bermello, Ajamil And Partners, Inc. agrees to no future increases in the contract amount based on time any project time extensions. This does not include scope-of-work changes; seconded by Commissioner Steinberg; Voice vote: 7-0. Patricia Walker to appropriate the funds. Tim Hemstreet to handle.

Commissioner Gross feels that this should be the last payment the City should give the architect on this project. The City should not enter into contracts for a specific period of time with architects for work they are overseeing. The construction/administration oversight should be for the duration of the project. He stated that this is an old contract and that the City is no longer entering into these types of agreements but would like to see this agreement amended now stating that this is the last payment regardless of when the project is completed.

Jorge Chartrand, Senior Capital Projects Coordinator, stated that the new contracts are developed in terms of scope-of-work and this is the standard in the industry. Unfortunately, several of the old contracts were not structured the new way and the Administration is dealing with the consequences. He also stated that Bermello, Ajamil And Partners, Inc (B & A), has agreed not to request additional services because of project time extensions even if the projects go beyond the time.

Commissioner Smith stated this action in effect cuts B & A out of the North Shore Open Space Park phases 4 and 5, and the South Pointe Park projects. This will require the City to acquire the services of another designer. Are the savings of \$171,000 worth the risk of getting a new designer? It may cost the City more money in the long run. The fee now is about 7.1 %. We need to recognize that there is a risk that our savings will be eaten up.

Robert Middaugh, Assistant City Manager, stated that the principal advantage in deleting this work is to get the City out of the time-based contract and into the new contract format. It may cost the City more money; however, the saving may be at the back end if additional time extensions are needed.

Jorge Gonzalez, City Manager, stated that the Administration knows that the current contract is a time-based contract. By removing this work from the existing contract and awarding it to another contractor, it may cost a little more in design phase, but because the time element is removed it may in the end canceled out if there are any time extensions. In addition, the new process is to have a contracted negotiator negotiate [Pappas] the A and E contracts and have significantly reduced the initial project costs each time the process has been used.

Vice-Mayor Cruz stated that this should have been reviewed at the Finance and Citywide Project Committee (FCWPC) so that the Commission could be better informed before voting. In the future, changes of this magnitude should be reviewed by the FCWPC Committee and their recommendations given to the City Commission beforehand.

Jorge Gonzalez, City Manager, stated issues similar to this could certainly be referred to the Finance and Citywide Projects Committee; however, this reason was done this way because about four months ago there was a similar item relative to the Corradino Group, with the same circumstances with respect to their contracts, and it was handle in much the same manner. He also stated that he thinks there may be only three or so existing contracts remaining which use the old time based criteria; Corradino, CDM and this one.

End of Consent Agenda

REGULAR AGENDA

R2 - Competitive Bid Reports**3:42:19 p.m.**

- R2A Request For Approval To Issue Purchase Orders Totaling \$1,789,651.40, Pursuant To Florida State Contract No. 02-10-0826, To The Following Vendors: Duval Ford, For The Purchase Of Fifty-Four (54) 2003 Ford Crown Victoria Police Pursuit Vehicles, Twenty-Eight (28) 2003 Ford Taurus Vehicles, One (1) 2003 Ford Explorer, And One (1) 2003 Ford Explorer XLS 4x4 Utility Vehicle In The Amount Of \$1,544,138.25; To Mc Cotter Ford, For The Purchase Of One (1) 2003 Ford E-250 Cargo Van With Crew Package In The Amount Of \$16,994.65; And To Maroone Chevrolet, For The Purchase Of Thirteen (13) 2003 Chevrolet Impalas In The Amount Of \$228,518.50.
(Fleet Management)

ACTION: Award approved. Motion made by Commissioner Garcia; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Gus Lopez to issue Purchase Order. Drew Terpak to handle.

R5 - Ordinances**10:57:08 a.m.**

- R5A An Ordinance Amending Chapter 82 Of The City Code Entitled "Public Property" By Amending Article VI Entitled "Naming Of Public Facilities And Establishment Of Monuments Or Memorials" By Amending Section 82-503, Entitled "Naming Of Public Facilities" By Eliminating The Requirement Of A Referendum In Such Cases When The Facility To Be Named Or Renamed Is City Owned And The Proposed Name Includes The Name Of The City And The Function Of The Facility Or The Facility To Be Named Or Renamed Will Include The Name Of The City And The Current Name Of The Facility Providing For A Repealer, Severability, Codification And An Effective Date. **10:15 A.M. Second Reading, Public Hearing.**

(Parks And Recreation)
(First Reading On October 23, 2002)

ACTION: Public Hearing held. **Ordinance No. 2002-3384 adopted.** Motion made by Commissioner Bower; seconded by Vice-Mayor Cruz; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code Corporation.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

11:00:38 a.m.

R5B An Ordinance Amending Miami Beach City Code Chapter 2, Division 3 Thereof, Entitled "Lobbyists," By Creating Section 2-485.2 Entitled "Prohibited Campaign Contributions By Lobbyists On Procurement Issues"; Providing For Repealer, Severability, Codification, And Effective Date.

10:20 A.M. Second Reading, Public Hearing

(Requested By Commissioner Saul Gross)

(First Reading On October 23, 2002)

ACTION: Public Hearing held. **Item not adopted.** Motion made by Commissioner Bower to not approve this ordinance and to prepare a new ordinance for first reading in 30 days, which includes the lobbyist on procurement issues and real estate interests; seconded by Commissioner Smith; Voice vote 6-1; Opposed: Commissioner Gross. Mayra Diaz Buttacavoli and the Legal Department to handle.

1. David Kelsey spoke.
2. Robert Meyers from the Miami-Dade Commissions on Ethics stated that the Ethics Commission approves of this legislation.
3. Sylvester Lukis spoke.
4. Jose Gomero, spoke on behalf of Regosa Engineering, Inc.
5. Gil Zriny spoke.
6. Fred Balsera spoke.
7. Donahue Peebles spoke.

Commissioner Garcia requested from the Administration a progress report on the revenues from the beach concessions. Patricia Walker to handle.

Mayor Dermer commended Commissioner Gross for his good intentions with this ordinance. Also, he commended Commissioner Smith for his beliefs. He also commended Mr. Lukis and Mr. Balsera for fighting for the right to raise and give money. Mayor Dermer commended Mr. Peebles for his input. He stated that as other Commissioners have pointed out, this is an issue of perception. He stated that there are real estate issues that also should be addressed regarding campaign contributions. He would support this ordinance only if the real estate interests are included. He looks forward to working with Commissioner Gross on an ordinance addressing the realtor issue. He requested that this ordinance be deferred and bring back another ordinance that addresses the issue of real estate as well as lobbyists.

Commissioner Garcia stated that Commissioner Cruz's idea of limiting expenditures should also be included as well as a reorganization of the government.

Vice-Mayor Cruz stated that he is working on the ordinance and it will be presented.

Motion made by Commissioner Bower to not approve this ordinance and to prepare a new ordinance for first reading in 30 days, which includes the lobbyist on procurement issues and real estate interests; seconded by Commissioner Smith; Voice vote 6-1; Opposed: Commissioner Gross.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

2:59:52 p.m.

R5C Proposed Amendment To The Sign Section Of The City Code
An Ordinance Amending The Code Of The City Of Miami Beach, Florida, Chapter 138, "Signs," Section 138-71, "Prohibited Signs And Sign Devices," By Adding Standards For The Use As Signs Of Television Monitors Or Similar Devices; Amending Article IV, "Temporary Signs," Section 138-133, "Construction Signs," By Clarifying The Language In The Existing Regulations; Amending Section 138-135, "Real Estate Signs - Single Family Residential," Removing The Color Restriction For These Signs; Section 138-136, "Real Estate Signs - Multifamily, Commercial, Industrial, Vacant Land," By Providing For Additional Signs And Standards; Article V, "Sign Regulations By District," Section 138-171, "General Provisions," By Creating Standards For Retail Storefronts Sharing Interior Spaces; Section 138-172, "Schedule Of Sign Regulations For Principal Use Signs," By Creating Regulations For Signs In RO, "Residential Office" Zoning Districts; Providing For Codification; Repealer; Severability; And An Effective Date. **10:45 A.M.**
Second Reading, Public Hearing

(Planning Department)
(First Reading On October 23, 2002)

ACTION: Public Hearing held. **Ordinance No. 2002-3385 adopted as amended.** Motion made by Commissioner Gross to allow one (1) television monitor in a window unless it's a television store [which can have more than one monitor]; seconded by Commissioner Garcia; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. R. Parcher to transmit to Municipal Code Corporation. Al Childress to handle.

David Kelsey spoke.

Motion made by Commissioner Bower to adopt the ordinance; seconded by Commissioner Steinberg for discussion.

Discussion continued.

Jorge Gomez, Planning Director, stated that this item was placed on the agenda because the City has been functioning under an Administrative interpretation that TV monitors are considered signs. This purpose of the ordinance is to codify the interpretation.

Commissioner Steinberg withdrew his second.

Amendment:

Motion made by Commissioner Gross to allow one (1) television monitor in a window unless it's a television store [which can have more than one monitor]; seconded by Commissioner Smith; Ballot vote: 6-0; Absent Vice-Mayor Cruz.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

3:09:17 p.m.

R5D Demolition By Neglect Procedures

An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, Entitled "Administration And Review Procedures", Article X, Entitled "Historic Preservation", Division 2, Entitled "Historic Preservation Board Review Of Projects", By Amending Section 118-532 To Clarify And Expand Procedures For The Maintenance Of Designated Properties To Prevent Demolition By Neglect; Providing For Repealer, Codification, Severability And An Effective Date.

2:00 P.M. First Reading, Public Hearing

(Planning Department)

ACTION: Public Hearing held. **Ordinance approved on First Reading as amended.** Motion made by Commissioner Bower; seconded by Commissioner Gross; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. Second Reading and Public Hearing scheduled for December 11, 2002. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Gil Zriny spoke.

Commissioner Smith stated that throughout the ordinance there is reference that the Building Official and the Planning Director are responsible for carrying out the enforcement provision of the ordinance; however in section 118-532 (g) (1) (c) there is reference to the Chairperson of the Historic Preservation Board. He stated that he did not think this was right because he/she is not an employee of the City. It's up to the Administration to enforce.

Jorge Gomez, Planning Director, stated that he has no problem removing the chairperson of the Historic Preservation Board.

Commissioner Gross stated that regardless of whether it's the Building Official or the Planning Official, there seem to be three (3) standards in the ordinance regarding approval. There should be one (1) standard. He also stated that the issue of spalling is not addressed in the ordinance.

Commissioner Gross stated that he has other minor changes, most technical in nature, to this ordinance that will be taken care of between first and second reading. Jorge Gomez to meet with Commissioner Gross to capture the changes.

Jorge Gomez, Planning Director, stated that depending on the amendments, it may require another first reading, public hearing.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

5:21:37 p.m.

R5E Amendment To RPS-4 Development Regulations

An Ordinance Amending The Land Development Regulations Of The City Code, By Amending Chapter 142, "Zoning Districts And Regulations" Article II, "District Regulations" Division 18, "PS Performance Standard District," Amending Section 142-696 "Residential Performance Standard Area Requirements," By Amending The Maximum Building Height In The R-PS4 Zoning District; Amending Section 142-697 "Setback Requirements In The R-PS1, 2, 3, 4 Districts," To Provide For Additions To Follow The Existing Building Line And Modifying The Tower Setbacks; Providing For Codification, Repealer, Severability And Effective Date. **5:05 P.M. Second Reading, Public Hearing.**

(Planning Department)

(First Reading, Public Hearing On October 23, 2002)

ACTION: Public Hearing held. **Ordinance No. 2002-3386 adopted as amended.**

Motion made by Commissioner Gross; seconded by Commissioner Steinberg; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code Corporation. Jorge Gomez to handle.

Final Amendment:

35 feet height for the first 60 feet of lot depth, then line-of-sight up to 75 feet maximum height, rear setback the same as presently in City Code; Lots at a width of 50 feet or less aggregated after the effective date of this ordinance with adjacent parcels shall have a maximum height of 35 feet and shall not be allowed the increased height for parcels wider than 50 feet.

Jorge Gomez, Planning Director, stated that at the first reading of the ordinance there were extensive discussions held. All of the analysis and data given to the Planning Board and everything that was given to the Commission on first reading, as corrected for the City Clerk, are incorporated into the record. He corrected the record regarding some charts that were based on the Miami-Dade County Property Appraiser's Office and the City of Miami Beach's Building Department records. One major misconception or misstatement that was stated at the first hearing dealing with the architectural district needs to be corrected. There was a mention made that the Ocean Front properties in the architectural district have a 200 foot height limitation. This is incorrect. Ground floor additions, where there is an existing building in that particular ocean front district are limited to 50 feet.

Jorge Gomez reviewed the actions of the City Commission on the first reading.

Speakers:

1. Carter McDowell, Esq. representing the Sea Crest Apts, Villa Luisa, Atlantic Vue and the Hotel Simone. He stated that he believes this item should be a quasi-judicial proceeding and should have the right to cross-examine witnesses. He also stated that he feels the hearing has not been properly noticed and the procedures that have been followed don't meet the requirements of Florida Statutes and the City Code. He also objected to presenting first.
2. Ralph Pigg, V.P. and son of the owner of the Villa Luisa Hotel
3. Jeff Bercow, Esq. representing the owners of the Arlington and Savoy site
4. Luis Revuelta, Project Architect
5. Craig Spencer, principal of Arden/Savoy
6. Ted Bliss
7. Michael Kinerk, Chairman of the Miami Design Preservation League

Carter McDowell, Esq. objected and stated that he believes his clients due process rights were violated. Mayor Dermer so noted.

8. Ken Harrison Robbins, Esq. representing the Ocean Drive Preservation Association
9. James Dekis
10. Bruce Fuster (MDPL board member)

11. Lourdes Solara (MDPL)
12. Herb Sosa (MDPL)
13. George Neary speaking on behalf of a property owner at 324 West 25 Street, as board member of Dade Heritage Trust, the Florida Trust for Historic Preservation and advisor for the National Trust for Historic Preservation
14. Lutz (unknown) - from Munich, Germany
15. Clare McCorde
16. Steve Plettfard
17. Frank Del Vecchio
18. Erika Brigham
19. Christina Labuzzeta
20. Javier Chacon
21. Bea Kalstein
22. Mark Needle

7:55:25 p.m.

Motion No. 1:

Motion made by Commissioner Gross to approve a 35 ft. height limit on single lots, 55 ft. on combined lots with 60 foot set back in the front and leave the rear set back as it presently is in the City Code; seconded by Commissioner Bower; Ballot vote #1: 4-3; Opposed: Vice-Mayor Cruz, and Commissioners Garcia and Steinberg. 5/7 vote required; Motion failed.

Mayor Dermer and Commissioners explained why they either supported or did not support the motion.

A discussion was held regarding lot aggregation and the question was asked if the City could prevent future lot aggregation, or if lots that were aggregated the height limitation would not increase.

Gary Held, First Assistant City Attorney, stated that there are two tests that apply to this request. One, was in the notice, and two, is there a rational basis for it given the evidence that has been presented. Because the issues are height and freezing the development regulations at a particular point in time, he stated that he believes the Commission can impose the restriction. He stated that he has heard arguments to the contrary.

Gary Held, First Assistant City Attorney, also clarified the record by stating that with equitable estoppel there needs to be an act in furtherance of development and it is not just the purchase of the property. For example, it could be hiring architects, proceeding with restoration, but something more than just purchase of the property.

8:23:03 p.m.

Motion No. 2:

Motion made by Commissioner Gross to approve a 55 ft. height limit on single lots, 55 ft. on combined lots with 60 foot set back in the front and leave the rear set back as it presently is in the City Code; seconded by Commissioner Smith; Ballot vote #2: 3-4; Opposed: Vice-Mayor Cruz and Commissioners Bower, Garcia, and Steinberg. 5/7 vote required; Motion failed.

8:23:49 p.m.

Motion No. 3: (no vote taken)

Motion made by Commissioner Gross to increase the height to 75 feet with a set back of 90 feet and to add a provision to eliminate the opportunity to aggregate the lots pursuant to City Code Section 118.5(2) which is aggregation by declaration rather than by transfer by deed; seconded by Commissioner Steinberg. Discussion continued.

Commissioner Steinberg withdrew his second stating that he doesn't feel the motion goes far enough. Two adjoining property owners could form a third entity.

Gary Held, First Assistant City Attorney, stated that he does not recommend prohibiting lot aggregation through covenants in lieu of unity of title. He also stated that there are very few choices when it comes to preventing lot aggregation and ultimately a judge will decide. The two choices are freezing the development rights of lots as they presently exist or equalize the heights.

Commissioner Steinberg seconded the motion with the above understanding.

Jorge Gomez, Planning Director, stated that the language should be something like if a lot that was 50 feet wide as of the effective date of this ordinance, the height will be 35 feet and no later aggregation or widening of that property will avail itself of the additional height.

Discussion continued. **No vote taken on this motion #3 above.**

8:30:40 p.m.

Motion to reconsider the 55/55 feet motion made by Commissioner Bower [55 ft. height limit on single lots, 55 ft. on combined lots with 60 foot set back in the front and leave the rear set back as it presently is in the City Code]; seconded by Commissioner Gross; Voice vote: 6-1; Opposed: Commissioner Garcia.

8:31:10 p.m.

Motion No. 3:

Motion made by Commissioner Bower to approve a 55 ft. height limit on single lots, 55 ft. on combined lots with 60 foot lot depth in the front and leave the rear set back as it presently is in the City Code [Jorge Gomez, Planning Director, stated that for the first 60 feet of lot depth there is a 35 foot height limit and then 55 feet height]; seconded by Commissioner Smith; Ballot vote #3: 4-3; Opposed: Vice-Mayor Cruz and Commissioners Garcia and Steinberg. 5/7 vote required; Motion failed.

Discussion continued.

Jorge Gomez, Planning Director, stated that the policy question is how do you deal with the mass and its effect on the urban context of the historic district. There are two things that can be done. 1) Try to develop a fixed setback which is applicable to all the sites; or 2) to deal with a line-of-sight study that protects the contributing buildings. The line-of-sight is site specific; it deals with the conditions on each site. The Commission does not need to choose a setback, it can just be established that there shall be a line-of-sight after 35 feet height limit and can go up the height limit the City Commission approves, but it has to respect the line-of-sight study as described in the City Code. He advised the Commission to set the setback at 60 feet [35 feet for the first 60 feet] and anything higher than 50 feet following a line-of-sight based up the conditions on the site.

8:34:07 p.m.

Motion No. 4:

Motion made by Commissioner Gross for 35 feet height for the first 60 feet of lot depth, then line-of-sight up to 75 feet maximum height, rear setback the same as presently in City Code; Lots at a width of 50 feet or less aggregated after the effective date of this ordinance with adjacent parcels shall have a maximum height of 35 feet and shall not be allowed the increased height for parcels wider than 50 feet; seconded by Commissioner Steinberg; Ballot vote #4: 7-0. R. Parcher to transmit to Municipal Code Corporation. Jorge Gomez to handle.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald
2. Document titled 315, 321 Ocean Drive Combined Lots - Line of Sight, Sections / Massing Study submitted by Erica Bringham
3. Color photo of a beach walkway submitted by Christina Labuzzeta
4. Color photo of titled: "Eight Stories Dwarfs Neighborhood - Five stories or 55 feet is the Maximum," submitted by Mr. Dekis
5. Transcript excerpt from October 23, 2002 City Commission meeting submitted by Mr. Bercow
6. Color photo showing the Villa Luisa Hotel and surrounding structures
7. Color photos and line of sight drawings submitted by Mr. McDowell
8. Letter from Jeffrey Bercow and Graham Penn (Arden Savory Partners - Savoy Hotel), to Gary Held, First Assistant City Attorney, dated November 11, 2002, RE: R-PS4 Code Amendment - Authority of City Commission to increase Height at Second Reading on November 13, 2002
9. Copy of an aerial photomontage dated 12/12/97 showing 110 Ocean Drive prepared by Arquitectonica and submitted by Mr. McDowell
10. Two elevation drawings submitted by Mr. McDowell
11. Document titled "Ocean Drive Heights Ordinance", submitted by Mr. Del Vecchio
12. Letter to Editor, Beach Neighbors Section, Miami Herald, from Jeffrey Bercow, dated November 13, 2002

3:29:29 p.m.

- R5F An Ordinance Amending Chapter 82, "Public Property," Article IV, "Uses In Public Rights-Of-Way," Division 5, "Sidewalk Cafes," By Creating A New Section 82-384(ff), Allowing Limited Displays Of Food Served At Sidewalk Cafes On Private Property Adjacent To The Cafe, Providing For Review And Design Criteria Of Display Cases And Related Matters; Amending Chapter 142, "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations," Division 1, "Generally," Section 142-874, "Required Enclosures," To Provide For The Above Displays; And Setting The Fee For Design And Historic Preservation Board Review Of Requests To Increase The Size Of Sidewalk Café Displays At \$200.00; Providing For Repealer, Codification, Severability And An Effective Date.

First Reading

(Planning Department)
(Deferred From October 23, 2002)

ACTION: Ordinance approved on First Reading as amended. Motion made by Commissioner Bower; seconded by Commissioner Gross; Ballot vote: 6-0; Absent: Vice-Mayor Cruz. Second Reading and Public Hearing scheduled for December 11, 2002. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to check the industry standard for the size and capacity of food display cases and add the necessary language for second reading.

Commissioner Gross stated that there should be some general provisions in the ordinance so that the Administration has some flexibility to minimize having to constantly refer issues dealing with display-case-size to the Design Review Board or the Historic Preservation Board.

David Kelsey spoke.

R6 - Commission Committee Reports

- R6A Verbal Report Of The Land Use And Development Committee Meeting Of November 4, 2002: **1)** Discussion Regarding The Ordinance Amendment That Places Reasonable Limits On Hedge Heights; **2)** Discussion Regarding The New F.A.R. On Properties With Existing Historic Buildings; **3)** Discussion Regarding Historic District By Date For Single Family Homes Constructed Before 1942; **4)** Discussion Regarding New Procedures For Minimum Flood Elevations As It Relates To The 50% Rule; **5)** Discussion Regarding Proposed Amendment To The City Code Regarding The Use Of Television Monitors Or Similar Devices As Signs.

ACTION: Item not reached. Lilia Cardillo to place on the Consent Agenda.

- R6B Verbal Report Of The Neighborhoods Committee Meeting Of November 5, 2002: **1)** Discussion Regarding The City's Enforcement Of The Noise Ordinance; And **2)** Discussion Regarding The Live-Aboard Vessels In Single-Family Districts Ordinance.

ACTION: Item not reached. Lilia Cardillo to place on the Consent Agenda.

Handout or Reference Materials

1. Written report was given to the City Clerk, but the item was not reached.

R7 - Resolutions

12:36:25 p.m.

- R7A A Resolution Approving The Award Of A Contract To R. L. Saum Construction Company, Inc., In The Amount Of \$3,269,000, Pursuant To Bid No. 70-01/02, For The Construction Of The Beachwalk Bicycle/Pedestrian Trail Project From 21st Street To Lummus Park, And Appropriating \$3,704,000 From Redevelopment Agency Series 96B Tax Increment Bond Fund No. 365, To Provide The Required Construction, Project Administration And Contingency Funding For The Beachwalk Project.

Joint City Commission And Redevelopment Agency.

(Public Works)

ACTION: Heard in conjunction with RDA Item 3A. Resolution No. 2002-25068 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 5-0; Absent: Mayor Dermer and Commissioner Garcia. Patricia Walker to appropriate the funds. Fred Beckmann to handle.

Handout or Reference Materials:

1. Color copies of Attachment "A" Beachwalk Conceptual Plan (North Section) and Attachment "B" - Beachwalk Conceptual Plan (South Section)

11:00:05 a.m.

- R7B A Resolution Approving The Renaming Of The Bayshore Golf Course To The Miami Beach Golf Club And Providing Said Name Change Shall Take Effect Ten (10) Days After The Adoptions Of This Resolution. **10:16 A.M. Public Hearing.**
(Parks & Recreation)

ACTION: Public Hearing held. **Resolution No. 2002-25069 adopted.** Motion made by Commissioner Garcia; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Gross. Kevin Smith to handle.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

City Clerk's Note: See Item R5A

3:59:34 p.m.

- R7C A Resolution Approving A Settlement Agreement Between Ecko.Complex, Llc D/B/A Ecko Unltd (Ecko) And The City Of Miami Beach Regarding Outstanding Violations Of The Code Of The City Of Miami Beach And Providing That The Fine Amount Be Reduced From \$559,610 To \$50,000 And Further That A \$50,000 Donation Be Provided To The City For Purposes Of Completing A Skate Park On A Site To Be Provided By The City And To Provide Ecko Naming Rights For Said Skate Park.
(City Manager's Office)

ACTION: Item Administratively withdrawn. Discussion held to express the sentiment of the City Commission.

Discussion held. Motion made by Commissioner Steinberg expressing the sentiment of the City Commission with the request that the Administration look at this in a competitive nature and try to find other interested parties; determine if the City wants to name the facility, and to make sure that the Legal Department reviews the contract; seconded by Vice-Mayor Cruz; Voice vote 7-0. Robert Middaugh to handle.

Robert Middaugh, Assistant City Manager, stated that this item has to do with outstanding fines associated with Memorial Day 2001 celebration. Code Compliance cited Ecko for sticker violations. The proposed agreement proposes two things: 1. Provides for a \$50,000 settlement and 2. \$50,000 donation if the City uses the money to construct a skate park.

Commissioner Smith stated that this is what the kids want and commended Commissioner Gross for bringing the skate park issue up. He asked what would happen to the \$50,000 if the City builds a skate park and then decides to change its use. He added that he did not see anything in the contract about how long the City has to maintain a skate park.

Lucia A. Dougherty Esq. (Greenberg Traurig) stated that there is nothing in the contract because the City has the right to change it to another use, in which case the City has the right to take down the sign as well.

Commissioner Smith stated that the City has to have the right and flexibility to change the use if we feel that is no longer a sport that we want.

City Manager, Jorge Gonzalez, stated that the City has that flexibility, and added that the Legal Department is working on making the language regarding usage changes clear. If the City chooses to change its use, the City has the sole discretion to do so, and the City does not have to reimburse Ecko

for any amount. One of the things that is missing from the contract, and will be added for the next time, is how long must it be named Ecko Park as it relates to their contribution, and Ecko was talking about a 10-year for the rights to display their sign.

Lucia A. Dougherty Esq. stated that Ecko asked to retain the name for as long as it remains a skate park and as long as Ecko remains a company.

Commissioner Gross stated that some parameter need to be set such as how big is it going to be and how big a budget.

Lucia A. Dougherty, Esq., stated that they believe the skate park can be built for \$100,000.

Commissioner Garcia asked if the site is next to the Youth Center.

Jorge Gonzalez, City Manager, stated that that is a possible site. Wherever the site, the Administration wants to make sure that the community is receptive and embraces it.

Commissioner Smith suggested the southern boundary of the North Shore Open Space Park.

Commissioner Bower stated that a company that does something wrong seems to be getting rewarded.

Lucia A. Dougherty, Esq., stated that her client (even though they believe they have not done anything wrong). is willing to give the City \$50,000 to settle this issue. In addition, if the City wants a park, and they want to put Ecko's name on it, another \$50,000 for the park will be given and they will build it for the City. They will pay for the design and for the park and for other things. If the City does not want the park, the City can take the \$50,000 settlement.

3:21:33 p.m.

R7D A Resolution Establishing The Sequencing Of The Construction For The Individual Bid Packages And Projects Within The Neighborhood Right-Of-Way Infrastructure And Parks And Facilities Improvement Programs.

(Capital Improvement Projects)
(Deferred From October 23, 2002)

ACTION: Resolution No. 2002-25070 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Tim Hemstreet to handle.

Handout or Reference Materials:

1. Program sequence charts showing the Miami Beach construction projects by neighborhood and color maps

3:20:01 p.m.

- R7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Professional Services Agreement, Pursuant To Request For Qualifications (RFQ) No. 31-01/02 For Design And Construction Administration Services For The Venetian Islands Neighborhood Right Of Way Improvement Project, With The Firm Of Edwards And Kelcey, Inc., Which Acquired The Top Ranked Firm Of Kunde Sprecher, Inc. Prior To The Start Of Fee Negotiations, In The Not To Exceed Amount Of \$799,903 Comprised Of \$93,385 For Planning Services, \$450,000 For Design Services, \$20,000 For Bidding And Award Services, \$150,000 For Construction Administration Services, And \$86,518 For Other Direct Costs; And Appropriating Funds For The Agreement In The Total Amount Of \$799,903 Comprised Of \$295,964 From The Series 2000 General Obligation Bond Fund; \$167,980 From The Series 2000 Water And Sewer Bond Fund; And \$335,959 From The Series 2000 Stormwater Bond Fund; And Further Appropriating Funds To Cover The Related Capital Improvement Projects Office (CIP) Project Management Fee, Totaling \$181,933, Comprised Of \$63,267 From The Series 2000 Water And Sewer Bond Fund; And \$118,666 From The Series 2000 Stormwater Bond Fund.
(Capital Improvement Projects)

ACTION: Resolution No. 2002-25071 adopted. Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Tim Hemstreet to handle.

City Clerk's note: The title of the Resolution in the Agenda does not match the title in the Commission Memorandum. The Resolution makes reference to the appropriation of funds. Per the Finance Department, the funds were already appropriated.

- R7F A Resolution Relating To The Annual Evaluation Of The City Manager; Receiving The City Manager's Report; Adjusting His Salary Accordingly, Granting Deferred Compensation, Adjusting His Employment Contract; And Setting An Effective Date.
(City Manager's Office)
(Memorandum And Resolution To Be Submitted In Supplemental)

ACTION: Item not reached. Lilia Cardillo to place on December 11 Commission Agenda.

3:24:38 p.m.

- R7G A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Received In Response To Request For Proposals (RFP) 49-01/02, Review, Assessment, And Recommended Structure Of The Greater Miami Convention And Visitors Bureau; Authorizing The Administration To Negotiate With The Top-Ranked Firm Of Economic Research Associates (ERA), And If Unsuccessful, Authorizing The Administration To Negotiate With The Second-Ranked Firm Of C.H. Johnson Consulting; Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon The Administration Successfully Negotiating An Agreement.
(City Manager's Office)

ACTION: Resolution No. 2002-25072 adopted as amended. Motion made by Commissioner Steinberg to approve the City Manager's recommendation with the provision that the consultant will not be providing this service for the City of Miami or Miami-Dade County; seconded by Commissioner Smith; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Christina Cuervo to handle.

R9 - New Business and Commission Requests

R9A Board and Committee Appointments.
(City Clerk's Office)

Action:**Direct appointments made:****Convention Center Advisory Board:**

Bernice Martinez	Term expires	12/31/02	Appointed by Commissioner Steinberg
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Fine Arts Board:

Jacqueline Roch	Term expires	12/31/02	Appointed by Commissioner Cruz
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Miami Beach Commission on the Status of Women:

Ida Percal	Term expires	12/31/04	Appointed by Commissioner Garcia
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Police Citizens Relations Committee:

Micky Ross	Term expires	12/31/02	Appointed by Commissioner Smith
Michael Finesilver	Term expires	12/31/03	Appointed by Mayor Dermer

Commission Appointments made:

4:18:08 p.m.

Visitor and Convention Authority

ACTION: Motion made by Commissioner Gross to appoint Steven Haas; seconded by Commissioner Steinberg; Voice vote: 7-0.

City Clerk's note: Mayor Dermer announced that the motion was seconded by Vice-Mayor Cruz; however, it was seconded by Commissioner Steinberg.

R9A1 Dade Heritage Trust's Three Nominations For Their Appointment To The Historic Preservation Board.
(City Clerk's Office)

ACTION: Item deferred. The term of the current appointment does not expire until December 31, 2002; therefore, Commissioner Bower requested the item be deferred.

Mayor Dermer stated that because Board and Committee appointments will be expiring at the end of December, there should be a time-certain on the December 11 agenda to make appointments. Lilia Cardillo to handle.

City Clerk's Note: Nominations submitted by Dade Heritage Trust: Beth Dunlop (incumbent), Nancy Liebman and George Neary.

3:57:20 p.m.

R9A2 Re-Appointment Of Mr. Michael Baum To The Health Facilities Authority.
(Finance Department)

ACTION: Motion made by Commissioner Steinberg to re-appoint Michael Baum to the Health Facilities Authority; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz.

2:38:24 p.m.

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

ACTION:

Michael Stern stated that he has been trying to negotiate with the City of Miami Beach some liens that were placed on a home at 437 South Shore Drive several years ago. He came to the City in good faith to work out an arrangement to get this resolved and nine or ten months later he is still nowhere. Originally he went to the Building Department, corrected the problems and brought the house into compliance. Before he brought the house into compliance, he met with the Deputy City Attorney regarding this case, who explicitly told him that this matter could be resolved for \$25,000. In the last six months, he has had two meetings with Robert Middaugh regarding this matter and he was told that the City was not willing to settle this for less than \$75,000. He did the work and spent the money; he completed the project and now someone is telling him that what he was told before, that that individual did not have the authority to state that he could settle this for \$25,000. In his second meeting with Mr. Middaugh, when the discussion was \$75,000, he already had in his possession a letter from the City of Miami Beach Senior Assistant City Attorney telling him that the amount was \$65,000. He doesn't think that's fair and the City should agree to settle with him the original amount for \$25,000. He has been waiting for nine months trying to negotiate this, but during those nine months he has had to maintain the property, and it's not fair and he still doesn't have a number. He has a document that Mr. Robert Middaugh tells him is a worthless piece of paper, it means nothing, because the City Attorney does not have the right to settle this with him.

Jorge Gonzalez, City Manager, stated that Mr. Middaugh is right. He also explained that the number is \$75,000. The discussion and the negotiation is not to take place at the dais. As soon as we have a settlement the Administration will bring this to the Commission as appropriate, but Mr. Stern has been fully informed by Mr. Middaugh as to what is and is not a settlement and who is and who is not authorized to settle, and to seek additional venues for that purposes is not appropriate.

Mr. Stern replied that he cannot work it out with Mr. Middaugh and added that he has already spent the money after Mr. Dixon told him that it could be resolved for \$25,000.

Mayor Dermer stated that this is a matter as the City Manager has said, subject to negotiations. He added that he understood his argument, basically that of reliance, relying on what he claimed to be an original representation to his detriment and that he should be able to uphold the City for that representation. Mayor Dermer strongly suggested (and stated that the Manager is correct,) that we do not use the Sutnick Forum as a fine mitigation hearing. Mayor Dermer added that Mr. Stern had been successful in heightening awareness to this issue.

Commissioner Smith stated that it is not within the purview of the Commission to get involved in the middle of a negotiating session between a resident and the City Manager and the City Attorney. At such time as things are worked out or not, there will be a process in which the matter will come to Commission. This is premature at this point, and it would be a violation of the Charter for the Commission to be telling the City Manager what to do on this issue while it is still under discussion and negotiation.

Commissioner Garcia would like to know what is the process after you get to an impasse. Mr. Stern should be aware what the next step is. If there were no agreement between the two parties, what would be the next step?

Jorge Gonzalez, City Manager, explained that unless there is a lien mitigation from Administration, he does not believe that there is a next step.

Mayor Dermer added that the City Manager will look this over to make sure everything is in order before he officially declares an impasse, the Commission is sympathetic to people that are in Mr. Stern's position, but this is not the place to trial a case.

Gil Zriny spoke on the very heated and very good debate that took place earlier in reference to lobbyists. Mr. Zriny suggested that Mr. Stern hire a lobbyist. The lobbyists spend a lot of the time lobbying Administration and not the elected officials.

Bea Kalstein stated that on several occasions recently Mayor Dermer represented the Commission and the Beach, and he makes a fine messenger that is worthy of representing the community. Regarding elections and influence in campaigning; there is one important thing, to do a job if you are in public service, do it honestly and with consideration. She added that if the job is done well, even at times when people do not agree, they will respect you for your honesty and integrity. You do not need a campaign fund. She also spoke on other issues in reference to election and she has been dealing with David Leahy on those issues for the last twenty years. She added that unfortunately, we do not have an informed population. People have to learn to be more careful and study the issues and the candidates more and pay more attention to government.

Phillip De La Rosa spoke about the future of the Electrowave. The minibus could cover Washington and the Alton Road districts to improve rider response. He gave the City Manager a map of the new route to increase ridership. In addition, 0.50 cents is not too high a price. He would like to see the Electrowave be extended to cover Mt. Sinai, Miami Heart Institute and the 41st Street business district.

Mayor Dermer explained that the City Manager is doing an analysis on the Electrowave and he suggested that Mr. De La Rosa submit the recommendations to him.

Commissioner Gross also added that the MBTMA has hired a professional consultant to look at a route very similar to the one that he has proposed.

Torquill Smith spoke on his concerns on the effectiveness of the Homeless Assistance Program from the last fiscal year. The City is arresting more people than they are processing, and that should be Law Enforcement funding not Homeless Assistance funding, and the worst case scenario is that figures don't add up. We need to get more creative and cost-effective about where we address homeless situation in a domestic fashion.

Handout or Reference Materials

1. Torquill Smith presented a paper titled "Home Outreach Stat," week ending 6/16/2002

R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

ACTION: Item not reached.

3:54:04 p.m.

R9C Discussion Regarding The Clean-Up And Dredging Of City's Canals As A State And Federal Legislative Priority.

(Requested By Mayor David Dermer)

ACTION: Discussion held. Mayor Dermer gave an overview and stated that he would continue to pursue funding and add to the State and Federal Legislative priorities. Kevin Crowder to handle.

12:53:03 p.m.

R9D Discussion Regarding The Letter Of Intent Negotiated Concerning The Outstanding Issues Between The City Of Miami Beach, The Miami Beach Redevelopment Agency And RDP Royal Palm.

(City Manager's Office)

ACTION: Discussion held.

Jorge Gonzalez, City Manager, stated that there is a letter of intent being drafted that will be presented to the City Commission. There has been significant progress since the October 23, 2002 meeting.

Mr. Peebles stated that the City Manager's overview accurately reflects his view of where the negotiations are at this time. He stated that a lot of progress has been made. Negotiations are 95 percent plus complete.

Commissioner Gross asked what mechanism is in place to be sure all parties are comfortable with the arrangements, especially those individuals who were involved with the African- American boycott and the hotel industry to increase hotel rooms.

Mr. Peebles stated that he would meet with the entities involved in the African-American boycott and have a letter drafted and presented to the City Commission stating their support of the negotiations. He will ask Mr. H. T. Smith to provide a letter in support of Mr. Peebles request for changes or if Mr. Smith and Ms. Marilyn Holifield have time to appear before this Commission. In addition, he brought the Shorecrest into the mix by acquiring the property. The objective has been complete, there is an African-American owned hotel and regardless of what happens to the Shorecrest, there is a commitment from him to own the Royal Palm for five years.

In addition, Mr. Peebles stated that he sits on the executive board of the Greater Miami Convention & Visitors Bureau. The Royal Palm signed a room block agreement with the Convention and Visitors Bureau. The agreement calls for a 325-room block and a 175-room block. There will be a mechanism to ensure that this block agreement is honored. This will be stated in the Declaration of Condominium.

Commissioner Smith stated that one of the factors which will affect the marketability of time share units or condominiums is the availability of parking.

Mr. Peebles stated that there are 120 parking spaces in the Shorecrest and also they have valet parking. Given the nature of this type of time-sharing of hotel rooms, there will not be a lot of drive-in customers.

Commissioner Smith asked Mr. Peebles what are the zoning requirements imposed by the City regarding parking.

Mr. Peebles stated that as it is built now, the Royal Palm complies with all of the current parking regulations. There are 270 spaces in the City's parking garage and that satisfies the parking requirements for the Royal Palm. They pay a facilities use payment of about a quarter-of-a-million annually whether the spaces are used or not, plus a rate for use of the spaces as well.

Commissioner Smith asked if the parking requirements would change if the use were changed from hotel to condominiums.

Christina Cuervo, Assistant City Manager, stated that as long as they are not permanent dwellings and have no kitchen the parking requirement would not change. In the agreement it is stated that they have to comply with all zoning requirements.

Jorge Gomez, Planning Director, explained that the form of ownership when it goes condo does not trigger any type of parking requirements, what triggers it is if they add kitchens in the hotel room, or the suite hotel has 550 square feet; then it is treated as an apartment unit for parking purposes and the requirements change from one (1) space to one and a half (1 1/2) spaces per units.

Mr. Peebles defined the difference between fractional shares and time shares.

Commissioner Gross asked when Mr. Peebles is going to pay the back rent.

Mr. Peebles stated that it is in the memorandum and the back rent will be paid within five (5) business days after the letter of intent is signed.

Commissioner Smith stated that the City is giving a credit of \$280,000 to be applied to the environmental contamination claims provided that if Mr. Peebles recovers money from the Clark case, 50% will be given back to the City. He asked what are the chances of the City getting money back based on his legal claim with Clark Construction.

Mr. Peebles stated that the way the City Manager has insisted on this the chances are exceptionally high because it is based on any recovery net of attorneys' fees and court costs. Before any money is reimbursed for the costs incurred, the City will get its share. The claim against Clark Construction is around \$20M. He added that the trial will be held in late March 2003.

Commissioner Smith stated that the City has first lien on any recovery regardless of whether the recovery is allocated to environmental claims or any other claims. Before Mr. Peebles gets his first dollar, the City will get back its 50%.

Mr. Peebles answer "yes," and also stated that his claim against the City is \$803,000 and its been settled in the \$200,000 range.

3:54:54 p.m.

R9E Discussion Regarding The Westside East Coastline Development Litigation.
(Requested By Commissioner Jose Smith)

ACTION: Discussion held.

As a result of the Close-Executive-Session, Mayor Dermer and the Members of the City Commission feel that a Commission Workshop needs to be held to inform the public on the issue(s) of the Alaska Parcel and global settlement.

Commissioner Smith stated that the purpose of the Commission Workshop will be to make a presentation to inform the public exactly what the issues are, what is being discussed, what is being proposed and to get feedback from the community as to how the City should respond to the overtures and how to carry out the mediation process that the Federal Court is asking the City to engage in. The Administration is to disseminate a notice to everyone impacted or affected by this matter.

The Commission Workshop should take place during the first half of December. It could be the same week of the Commission meeting. R. Parcher to notice the Workshop.

City Clerk's Note: The Commission Workshop has been scheduled for Monday, December 9 at 5:00 p.m.

3:44:52 p.m.

R9F Discussion Regarding The Status Of The City Center RDA Amendments, Which Are Pending Before The Miami-Dade County Commission.
(Requested By Commissioner Jose Smith)

ACTION: Discussion held.

Commissioner Smith stated that several months ago the City Commission passed several amendments to the City Center RDA which were supposed to go before the Miami-Dade County Commission. One of the proposed changes regards community policing. When the matter came before the County Commission for a vote on their Consent Agenda, County Commissioner Bruno Barreiro pulled the item.

Commissioner Smith stated that he has been trying to find out the nature of the problem and why it is taking so long to get this item approved by the County Commission. Furthermore there was a discussion about the County participating in the RDA district.

Mayor Dermer stated that he has talked with Commissioner Barreiro regarding this subject. The problem seems to be that there are two (2) new RDA's being proposed in the County. One is Hialeah and one in the north section. Commissioner Barreiro indicated the County wants to have more say in the everyday working of the RDA.

Mayor Dermer stated that he would speak with Commissioner Barreiro one-on-one to see if this can be worked out.

Commissioner Smith requested a report back, hopefully by the next commission, that there is not a linkage between Miami Beach's community policing money and members of the County Commission serving on the RDA. Christina Cuervo to handle with the Mayor's Office.

3:43:06 p.m.

R9G Discussion Regarding A Resolution Opposing Proposed Federal Legislation Shifting The Cost And Liability Of Nationwide Airport Security To Local Law Enforcement, And Hence To Local Governments, As An Unfunded Federal Mandate.

(Requested By Commissioner Richard L. Steinberg)

ACTION: Discussion held.

ACTION: Resolution No. 2002-25073 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Voice vote: 7-0. R. Parcher to transmit to the Jorden Burt, the City's Federal lobbyist and Senator Graham. R. Parcher to check with Commissioner Steinberg to determine exactly to whom the Resolution needs to be transmitted too.

R10 - City Attorney Reports

R10A Notice Of Public Disclosure Pursuant To 24 CFR Section 570.611(d)(1).
(No Commission Action Required)

ACTION: No action required.

R10B Notice Of Closed Executive Session.
Pursuant To Section 286.011, Florida Statutes, A Closed Executive Session Will Be Held During Lunch Recess Of The City Commission Meeting On November 13, 2002 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Pending Litigation On The Following Cases:

West Side Partners, Ltd., A Florida Limited Partnership; East Coastline Development, Ltd., A Florida Limited Partnership; 404 Investments, Ltd., A Florida Limited Partnership; Azure Coast Development, Ltd., A Florida Limited Partnership; Beachwalk Development Corporation, A Florida Corporation; Portofino Real Estate Fund, Ltd., A Florida Limited Partnership; St. Tropez Real Estate Fund, Ltd., A Florida Limited Partnership; And Sun & Fun, Inc., A Florida Corporation, Vs. City Of Miami Beach, A Florida Municipal Corporation. Eleventh Judicial Circuit, General Jurisdiction, Case No. 98-13274 CA-30.

East Coastline Development, Ltd., A Florida Limited Partnership Vs. City Of Miami Beach, A Florida Municipal Corporation. US Dist. Court, So. Dist. Of Fla. Case No. 01-4921 CIV-MORENO

East Coastline Development, Ltd., A Florida Limited Partnership, And Catherine F. Colonnese, A Registered Voter In The City Of Miami Beach, Florida, Vs. City Of Miami Beach, A Florida Municipal Corporation. Circuit Court Of The Eleventh Judicial Circuit Of Florida, General Jurisdiction Division, Case No. 01-25812 CA 30

The Following Individuals Will Be In Attendance: Mayor David Dermer; Members Of The Commission: Matti Herrera Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jose Smith And Richard L. Steinberg; City Attorney Murray H. Dubbin, City Manager Jorge M. Gonzalez, Deputy City Attorney Robert Dixon, Deputy City Attorney Jean Olin, First Assistant City Attorney Debora Turner, First Assistant City Attorney Gary Held, Special Counsels Richard Ovelmen And Dan Paul.

ACTION: Announced and held.

Reports and Informational Items

- A City Attorney's Status Report.
(City Attorney's Office)

ACTION: Written report submitted.

- B Parking Status Report.
(Parking Department)

ACTION: Written report submitted.

- C Status Report On The Rehabilitation Project Of The Existing Building And The Addition To Fire Station No. 2.
(Capital Improvement Projects)

ACTION: Written report submitted.

- D Status Report On The General Obligation Bond Funded Project For The Rehabilitation Of Fire Station No. 4.
(Capital Improvement Projects)

ACTION: Written report submitted.

- E Informational Report To The Mayor And City Commission, On All Existing City Contracts For Renewal Or Extensions In The Next 180 Days, Which By Their Terms Or Pursuant To Change Orders Exceed \$25,000.
(Procurement)

ACTION: Written report submitted.

- F Public Hearings Before The Planning Board For The Regular Meeting Of August 27, September 24 And October 22, 2002.
(Planning Department)

ACTION: Written report submitted.

End of Regular Agenda

**Miami Beach Redevelopment Agency
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
November 13, 2002**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Luis R. Garcia, Jr.
Member of the Board Saul Gross
Member of the Board Jose Smith
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Christina M. Cuervo
Assistant Director Mayra Diaz Buttacavoli
General Counsel Murray H. Dubbin
Secretary Robert E. Parcher

AGENDA

1. ROLL CALL
Vice-Mayor Cruz presiding.

2. OLD BUSINESS

- A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of September 2002.

ACTION: Written report submitted.

3. NEW BUSINESS

12:33:40 p.m.

- A. A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Approving The Award Of A Contract To R. L. Saum Construction Company, Inc., In The Amount Of \$3,269,000, Pursuant To Bid No. 70-01/02, For The Construction Of The Beachwalk Bicycle/Pedestrian Trail Project From 21st Street To Lummus Park, And Appropriating \$3,704,000 From Redevelopment Agency Series 96B Tax Increment Bond Fund No. 365, To Provide The Required Construction, Project Administration And Contingency Funding For The Beachwalk Project. **Joint City Commission And Redevelopment Agency.**

ACTION: Heard in conjunction with Item R7A. Resolution No. 438-2002 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 5-0; Absent: Mayor Dermer and Commissioner Garcia. Patricia Walker to appropriate the funds. Fred Beckmann to handle.

Commissioner Smith commended the Administration and the City Attorney's Office for the excellent results in the litigation.

Handout or Reference Materials:

1. Color copies of Attachment "A" Beachwalk Conceptual Plan (North Section) and Attachment "B" - Beachwalk Conceptual Plan (South Section)

12:36:40 p.m.

- B. A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Appropriating \$24,914.04 From The Available South Pointe Tax Increment Funds, In Order To Pay The 2002 Ad Valorem Property Taxes For 115 Parking Spaces Known As The City Unit Portion (Folio No. 02-4203-234-0002) Of Yacht Club At Portofino Project.

ACTION: Resolution No. 439-2002 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Mayor Dermer. Patricia Walker to appropriate the funds. Christina Cuervo to handle.

12:37:32 p.m.

- C. A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Appropriating \$23,397.51 From The Available South Pointe Tax Increment Funds, In Order To Pay The 2002 Ad Valorem Property Taxes For 108 Parking Spaces Known As The City Unit Portion (Folio No. 02-4203-251-0002) Of Murano At Portofino Project.

ACTION: Resolution No. 440-2002 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Mayor Dermer. Patricia Walker to appropriate the funds. Christina Cuervo to handle.

12:36:01 p.m.

- D. A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency Appropriating \$377,232 From Revenue Derived From The Operation Of The Anchor Shops And Parking Garage, In Order To Pay The 2002 Ad Valorem Property Taxes On The Anchor Shops And Parking Garage.

ACTION: Resolution No. 441-2002 adopted. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 5-0; Absent: Mayor Dermer and Commissioner Garcia. Patricia Walker to appropriate the funds. Christina Cuervo to handle.

Christina Cuervo, Assistant City Manager, stated that these are the taxes on the garage. These are the taxes associated with the garage structure because the Tax Assessor interrupts that there is private use occurring. The City has been unsuccessful in challenging the Tax Assessors opinion. This garage was built in order to enable the Royal Palm and the Loews to be developed.

Commissioner Bower asked if there is a way to the agreement so it would benefit the City?

Jorge Gonzalez, City Manager, stated that it would be best to approach the State of Florida to see if the law can be changed to allow cities to be treated like counties relative to public/private activities. **Kevin Crowder to handle.**

Commissioner Gross asked if the City has appealed the real estate tax.

Christina Cuervo, Assistant City Manager, stated that the City did not appeal the property tax.

Commissioner Gross asked the Administration to appeal this tax next year since the deadline

for this year has passed. **Christina Cuervo to handle.**

Commissioner Gross asked what the agreement between the Royal Palm and the Loews provide regarding the garage. Was it anticipated that there would be no real estate tax for the garage?

Christina Cuervo, Assistant City Manager, stated that although she will need to review the agreement, there is no pass-through on the tax in the agreement. They pay for each space they use in the garage. The agreement is very convoluted.

Commissioner Gross stated that it might be in the best interest of everyone to restructure the agreement with the Loews and the Royal Palm so it is not subject to tax.

Christina Cuervo, Assistant City Manager, will meet with the Miami-Dade County Tax Assessor to see what the City needs to do to stop paying property taxes. **Christina Cuervo to handle.**

Commissioner Gross asked if the Tax Assessor allocates on the percentage of public/private use.

Christina Cuervo, Assistant City Manager, stated that this will also be addressed with the Tax Assessor. **Christina Cuervo to handle.**

Murray Dubbin stated that when the agreement was entered into, the City knew the status of the law at that time. By making the commitment of public property for private use subjects the property to ad valorem taxes. If this were a County project, this would have been exempt from ad valorem taxes. The battle is to gain parity with the County regarding public/private projects. This should be added to the State lobbyists list of items. **Kevin Crowder to handle.**

Commissioner Gross stated that the City should send a letter that this tax is being paid under protest. **Christina Cuervo to handle.**

Commissioner Smith asked the nature of some checks (December 01- September 30 Siegfried, Rivera, et al) shown in the RDA report.

Christina Cuervo, Assistant City Manager, explained that this is for the ACI South Pointe Streetscape litigation.

Commissioner Gross asked about the status report on the outside legal fees for cases under litigation that was requested at the September 3, 2002 Committee of the Whole Meeting. **Legal Department to handle.**

Meeting adjourned at 8:52:24 p.m.

End of RDA Agenda